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ABSTRACT

This brief paper presents a comparative overview of three major federal laws affecting people with disabilities: the Americans with Disabilities Act of 1990 (ADA), the Individuals with Disabilities Education Act (IDEA), and Section 504 of the Rehabilitation Act of 1973. Presented in chart form, the three pieces of legislation are compared for the following aspects: (1) type/purpose; (2) who is protected; (3) responsibility to provide a free, appropriate public education; (4) funding to implement requirements; (5) procedural safeguards; (6) evaluation/placement procedures; and (7) due process. Also included are the telephone numbers of two information lines and a list of seven suggested resources. (DB)

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Overview of ADA, IDEA, and Section 504

Kelly Henderson

Americans with Disabilities Act of 1990 (ADA)	Individuals with Disabilities Education Act (IDEA)	Section 504 of the Rehabilitation Act of 1973
Type/Purpose		
A civil rights law to prohibit discrimination solely on the basis of disability in employment, public services, and accommodations.	An education act to provide federal financial assistance to State and local education agencies to guarantee special education and related services to eligible children with disabilities.	A civil rights law to prohibit discrimination on the basis of disability in programs and activities, public and private, that receive federal financial assistance.
Who is Protected?		
Any individual with a disability who: (1) has a physical or mental impairment that substantially limits one or more life activities; or (2) has a record of such an impairment; or (3) is regarded as having such an impairment. Further, the person must be qualified for the program, service, or job.	Children ages 3-21 who are determined by a multidisciplinary team to be eligible within one or more of 13 specific disability categories and who need special education and related services. Categories include autism, deafness, deaf-blindness, hearing impairments, mental retardation, multiple disabilities, orthopedic impairments, other health impairments, serious emotional disturbance, specific learning disabilities, speech or language impairments, traumatic brain injury, and visual impairments.	Any person who (1) has a physical or mental impairment that substantially limits one or more major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks.
Responsibility to Provide a Free, Appropriate Public Education (FAPE)?		
Not directly. However, (1) ADA protections apply to nonsectarian private schools, but not to organizations or entities controlled by religious organizations; (2) ADA provides additional protection in combination with actions brought under Section 504 and IDEA. Reasonable accommodations are required for eligible students with a disability to perform essential functions of a job. This applies to any part of the special education program that may be community-based and involve job training/placement.	Yes. A FAPE is defined to mean special education and related services. Special education means "specially designed instruction, at no cost to the parents, to meet the unique needs of the child with a disability...." Related services are provided if students require them in order to benefit from specially designed instruction. States are required to ensure the provision of "full educational opportunity" to all children with disabilities. IDEA requires the development of an Individualized Education Program (IEP) document with specific content and a required number of specific participants at an IEP meeting.	Yes. An "appropriate" education means an education comparable to that provided to students without disabilities. This may be defined as regular or special education services. Students can receive related services under Section 504 even if they are not provided any special education. Section 504 does require development of a plan, although this written document is not mandated. The Individualized Education Program (IEP) of IDEA may be used for the Section 504 written plan. Many experts recommend that a group of persons knowledgeable about the students convene and specify the agreed-upon services.
Funding to Implement Requirements?		
No, but limited tax credits may be available for removing architectural or transportation barriers. Also, many federal agencies provide grant funds to support training and to provide technical assistance to public and private institutions.	Yes. IDEA provides federal funds under Parts B and H to assist States and local education agencies in meeting IDEA requirements to serve infants, toddlers, children, and youth with disabilities.	No. State and local jurisdictions have responsibility. IDEA funds may not be used to serve children found eligible only under Section 504.

Procedural Safeguards		
The ADA does not specify procedural safeguards related to special education; it does detail the administrative requirements, complaint procedures, and the consequences for noncompliance, related to both services and employment.	IDEA requires written notice to parents regarding identification, evaluation, and/or placement. Further, written notice must be made prior to any change in placement. The Act delineates the required components of the written notices.	Section 504 requires notice to parents regarding identification, evaluation, and/or placement. Written notice is recommended. Notice must be made only before a "significant change" in placement. Following IDEA procedural safeguards is one way to meet Section 504 mandates.
Evaluation/Placement Procedures		
The ADA does not specify evaluation and placement procedures; it does specify provision of reasonable accommodations for eligible students across educational activities and settings. Reasonable accommodations may include, but are not limited to, redesigning equipment, assigning aides, providing written communication in alternative formats, modifying tests, redesigning services to accessible locations, altering existing facilities, and building new facilities.	A comprehensive evaluation is required. A multidisciplinary team evaluates the child, and parental consent is required before an initial evaluation. IDEA requires that reevaluations be conducted at least every 3 years. A reevaluation is not required before a significant change in placement. For evaluation and placement decisions, IDEA requires that more than one single procedure or information source be used; that information from all sources be documented and carefully considered; that the eligibility decision be made by a group of persons who know about the student, the evaluation data, and placement options; and that the placement decision serves the student in the least restrictive environment. An IEP review meeting is required before any change in placement.	Unlike IDEA, Section 504 requires only notice, not consent, for evaluation. It is recommended that districts obtain parental consent. Like IDEA, evaluation and placement procedures under Section 504 require that information be obtained from a variety of sources in the area of concern; that all data are documented and considered; and that decisions are made by a group of persons knowledgeable about the student, evaluation data, and placement options. Section 504 requires periodic reevaluations, but does not specify any timelines for placement. Section 504 requires that students be educated with their nondisabled peers to the maximum extent appropriate. Section 504 does not require a meeting for any change in placement.
Due Process		
The ADA does not delineate specific due process procedures. People with disabilities have the same remedies that are available under Title VII of the Civil Rights Act of 1964, as amended in 1991. Thus, individuals who are discriminated against may file a complaint with the relevant federal agency or sue in federal court. Enforcement agencies encourage informal mediation and voluntary compliance.	IDEA delineates specific requirements for local education agencies to provide impartial hearings for parents who disagree with the identification, evaluation, or placement of a child.	Section 504 requires local education agencies to provide impartial hearings for parents who disagree with the identification, evaluation, or placement of a student. It requires that parents have an opportunity to participate in the hearing process and to be represented by counsel. Beyond this, due process details are left to the discretion of the local education agency. It is recommended that districts develop policy guidance and procedures.

Information Lines

The ADA Information Line, 1-800-514-0301 (voice); 1-800-514-0383 (TDD).

US Equal Employment Opportunity Commission (ADA), 1-800-669-4000.

Resources

Council of Administrators of Special Education, Inc. (1991). *Student access: A resource guide for educators, Section 504 of the Rehabilitation Act of 1973*. Albuquerque, NM: Author.

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